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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR.	ATTORNEY DOCKET NO.
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09/635,624 08/10/00 FIRESTONE

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MM91/0507

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EXAMINER

PAUL A FIRESTONE
88 CENTRAL PARK WEST
NEW YORK NY 10023

FRANKLIN, J

ART UNIT

PAPER NUMBER

2876

DATE MAILED:

05/07/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/635,624

Applicant(s)

FIRESTONE, PAUL A.

Examiner

Jamara A. Franklin

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Riskin (US 4,555,618).

Riskin teaches scanning machines 12 disposed in positions to read account identification elements 14 applied to vehicles V. The account identification may include a bar code, or a numeric, alphanumeric or alphabetic series, or any other readable intelligence identifying a particular customer (col.4, lines 21-61).

Response to Arguments

4. Applicant's arguments filed 2/14/01 have been fully considered but they are not persuasive.

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., elimination of toll plazas and credit and a system based alone on the presence of moving and stationary vehicles) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Additional Remarks

6. The following claims 1-3, drafted by the examiner, is presented to applicant for consideration:

Note: bracketed characters “[]” indicate that those characters have been removed from the claim.

underlined characters “ ” indicate that those characters have been added to the claim

claim 1:

A method for collecting vehicular related fees wherein:

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one or more I.D. code identifiers are placed on [and/or about] a vehicle, said identifiers corresponding to a series of unique characteristics associated with [the] a vehicle and one or more desired set of [characteristics and/or] data, wherein[,] each [I.D.] identifier may be identified for data retrieval [and/or], recording, [and/or] and storing when positioned in proximity to an I.D. reader[s (or code readers)], wherein said I.D. [(code)] readers may be aligned to track [and/or trace] a variety of information relative to the existence of one or [of] more identifiers wherein said I.D. [(code)] reader[s] include the collection of desired data relative to the proximity of said identifiers to said [identifier] I.D. reader[s]; wherein said I.D. readers are on a manned scooter.

claim 2:

A method [and system] for collecting road-use fees comprising:

one or more passive signaling devices aligned to the vehicle so as to identify [the] a road-use fee for [such a] the vehicle, said signaling device to include a unique numeric or alpha numeric, or other unique identifying feature, or code, associated with [the] a registered owner of the vehicle, said passive signaling devices positioned in desired proximity to record and monitor road-use, [said] wherein monitors comprising a mechanism capable of recording [and/or] and documenting the existence, proximity, duration, [and/or] and other desired monitoring of events, from a desired position, the [system] method of which results in the monitoring and processing of the data.

claim 3:

A [system and] method for collecting vehicle fees wherein:

vehicles are aligned with readable identification means [(passive or active)] while said vehicles are moving or still;

wherein, a capturing means are aligned to track and process [the] a unique I.D. means within a proximity [and/or] and condition desired to be monitored;

wherein, the collected information provides a mechanism to allow [the] a charging of vehicle related road-use fees as desired;

wherein the capturing means is on a manned scooter

Although the claims have been modified, prior art does exist which may read over the newly cited claim limitations of claim 1 and claim 3. The examiner has provided US Patent No. 5,459,304) as an example.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (703) 305-0128. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703)308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jamara A. Franklin
Examiner
Art Unit 2876

JAF
April 30, 2001



KARL D. FRECH
PRIMARY EXAMINER